IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

OP.No. 4216 of 2003(B)

PETITIONER:

K.A.PRASAD,
WORKER GRADE II, MINOR IRRIGATION SECTION,
PAMPAKKUDA, ERNAKULAM DISTRICT.

BY ADV. SRI.M.CHATHUKUTTY NAMBIAR
SRI.C.MURALIKRISHNAN

RESPONDENTS:

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1. **THE CHIEF ENGINEER (IRRIGATION & ADMINISTRATION), STATE OF KERALA, THIRUVANANTHAPURAM.**

2. **THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION, ERNAKULAM.**

3. **THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, IRRIGATION (A) DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SRI.P.K.RAVIKRISHNAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 07/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.7416/2003 IN OP.4216/2003

DISMISSED

7.3.2007 **SD/- S.SIRI JAGAN, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER GO(P) NO.6/90/PW&T DT.20.1.90 OF THE 3RD RESPONDENT.

EXT.P2:- COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN OP NO.11627/95 DT.8.6.01.

EXT.P3:- COPY OF THE GO(Rt) NO.147/02/IRD DT.4.2.02 OF THE 3RD RESPONDENT.

EXT.P4:- COPY OF THE GO(P) NO.25/02 /WRD DT.17.6.02 OF THE 3RD RESPONDENT.

EXT.P5:- COPY OF THE ORDER NO.EE2-42838/01 DT.4.7.02 OF THE 1ST RESPONDENT.

/TRUE COPY/

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S. SIRI JAGAN, J.

O.P.NO. 4216 OF 2003

DATED THIS THE 7th DAY OF MARCH, 2007

JUDGMENT

The petitioner, who was a former CLR worker in the Irrigation Department filed O.P.No.11627/95, claiming benefit of Ext.P1 Government order dated 20.1.90,whereby CLR workers who were in service on or before 19.5.83 and who had put in a minimum service of 500 days as on 1.4.87 was entitled to be appointed to regular service. This court finding the petitioner to be eligible for the benefits of Ext.P1 G.O., by Ext.P2 judgment allowed the original petition and directed the respondents to grant the petitioner the benefits under Ext.P1 and implement the judgment expeditiously. In implementation of the judgment government passed Ext.P3 order directing Chief Engineer, Public Works Department (Admn.) and Chief Engineer (I&A) to take necessary steps for regularising the petitioner's service. Pursuant to the same Exts.P4 and P5 orders have been passed in which the service benefits of the petitioner have been restricted from the date of joining regular establishment consequent on the orders passed. The petitioner is challenging Exts.P4 and P5 orders by which his service benefits are restricted from the date of joining duty pursuant to orders

passed in implementation of Ext.P2 judgment.

2. The petitioner's contention is that he became eligible to the benefits of Ext.P1 order from the date of that order namely 20.1.90. It is because the respondents did not grant the benefits legally due to him based on Ext.P1, that he had approached this Court by filing O.P.No.11627/95, in which Ext.P2 judgment has been passed whereby this Court had directed the respondents to grant the benefits under Ext.P1. He would submit that therefore he is entitled to service benefits with effect from the date of Ext.P1 and not with effect from the date of joining duty pursuant to the orders passed in implementation of Ext.P2.

3. Learned Government pleader opposes the contentions of the petitioner. He would submit that immediately on passing of Ext.P2 judgment appropriate orders have been passed and the petitioner is entitled to the benefits only from the date of joining duty pursuant to such orders and not from any interior date.

4. I have considered the rival contentions in detail. In view of Ext.P2 judgment, the respondents cannot now dispute the eligibility of the petitioner for benefits of Ext.P1 Government order dated 20.1.90 . In fact in Ext.P2 judgment, this Court had specifically directed the respondents to grant the benefits to the petitioner under Ext.P1. In view of this categoric direction the petitioner would be entitled to all service benefits as available to him under Ext.P1, which can only be with effect from the date of

Ext.P1, which is 20.1.90. Simply because the respondents did not take steps to give the petitioner the benefits due to him under Ext.P1 at the appropriate time despite he having been eligible for the same, the petitioner cannot be put to prejudice. In other words the respondents cannot take advantage of their own wrong doing by denying service benefits to the petitioner from the date of Ext.P1 till the date of his joining duty pursuant to orders passed in implementation of Ext.P2 judgment.

5. In the above circumstances, I am of opinion that Exts.P4 and P5 orders to the extent it does not give the petitioner service benefits with effect from the date of Ext.P1 is unsustainable. Therefore Exts.P4 and P5 orders are quashed to that extent only. There would be a direction to the respondents to give the petitioner all service benefits including monetary benefits due to him in regular service on absorption pursuant to Ext.P1 with effect from the date of Ext.P1 namely 20.1.1990. The orders in this regard shall be passed and all consequential monetary benefits shall be given to the petitioner within a period of three months from the date of receipt of a copy of this judgment.

Original petition is allowed as above.

S. SIRI JAGAN, JUDGE

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